

OFFICE OF CHIEF ACCOUNTABILITY OFFICER
Summary of State Board of Education Agenda Items
May 9, 2019

OFFICE OF CHIEF ACCOUNTABILITY OFFICER

05. Action: Determination by the Mississippi Board of Education to officially abolish the Humphreys County School District and the Yazoo City Municipal School District in accordance with Miss. Code Ann. § 37-17-17 [Goals 1, 2, 3, 4, 5, and 6 – MBE Strategic Plan]

Background Information: On April 11, 2019, the Mississippi Board of Education selected the two (2) districts that will comprise the Mississippi Achievement School District. In accordance with Miss. Code Ann. § 37-17-17(5)(d) the Board shall abolish the districts as prescribed in Section 37-17-13. The effective date of the abolishment will be June 1, 2019.

Upon the transfer of the school districts to the Mississippi Achievement School District, the superintendent appointed by the Board shall be responsible for the administration, management and operation of the Mississippi Achievement School District.

The Mississippi Achievement School District shall comply with all federal and state laws and State Board of Education Policies as outlined in the current edition of the *Mississippi Public School Accountability Standards*.

This item references Goals 1, 2, 3, 4, 5, and 6 of the *Mississippi Board of Education 2018-2022 Strategic Plan*.

Recommendation: Approval

Back-up material attached

West's Annotated Mississippi Code

Title 37. Education

Chapter 17. Accreditation of Schools

Miss. Code Ann. § 37-17-13

§ 37-17-13. School district abolition; liability for debts

Currentness

(1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under [Section 37-17-6\(11\)\(b\)](#), the State Board of Education, in addition to any actions taken under [Section 37-17-6](#), may abolish the school district and assume control and administration of the schools formerly constituting the district, and appoint an interim superintendent to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in [Section 37-7-301](#), and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by [Section 37-57-1 et seq.](#) and [Section 37-57-105 et seq.](#)

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district in accordance with the procedures set forth in [Section 37-17-6\(14\)](#) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected after a period of maintaining a "C" accountability rating for five (5) consecutive years, unless the State Board of Education determines that the district is eligible to return to local control in less than the five-year period, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members in the manner provided by law. In the event the applicable statute provides that vacancies in an all-elected membership of the school board will be filled by appointment by the remaining members of the school board and no members of the school board remain in office, the Governor shall call a special election to fill the vacancies. In such situations, the Governor will set the date of the special election and the election will be conducted by the county election commission. The State Board of Education shall also request the governing authority or authorities to provide for the appointment of a superintendent or superintendents to govern the reconstituted, reorganized or changed district or districts, which such appointed position shall apply in all school districts including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time the Governor declares a state of emergency in a school district to be abolished shall not be eligible to serve in that office for the school district reconstituted, reorganized or changed after the Governor declares that an emergency no longer exists.

(4) As an alternative to the procedure set forth in subsection (3), in the event a local school board is abolished by the State Board of Education pursuant to this section, after the State Board of Education determines that the impairments are being substantially corrected and the responsibility of the district transformation in such district upon the conclusion of the final scholastic year in which a district has maintained a "C" accountability rating for five (5) consecutive years, unless the State Board of Education determines that the district is eligible to return to local control in less than the five-year period, the State Board of Education may appoint a new five-member board for the administration of the school district and shall notify the local county board of supervisors and/or municipal governing authority of such appointment, spreading the names of the new school board members on its minutes. The new local school board members shall be residents of the school district. The new local school board members appointed by the State Board of Education may serve in an advisory capacity to the interim superintendent for its first year of service and thereafter shall have full responsibility to administer the school district. Thirty (30) days prior to the end of the first year of office as an advisory board, each member shall draw lots to determine when the members shall rotate off the board as follows: one (1) member shall serve a one-year term of office; one (1) member shall serve a two-year term of office; one (1) member shall serve a three-year term of office; one (1) member shall serve a four-year term of office; and one (1) member shall serve a five-year term of office. At that time, the State Board of Education shall notify the appropriate board of supervisors or municipal governing authority of this action and request them to provide for the election or appointment of school board members at the end of the terms of office in the manner provided by law, in order for the local residents of the school district to select a new school board on a phased-in basis. In such situations, the Governor will set the date of any necessary special election which shall be conducted by the county election commission. The State Board of Education shall also request the new school board to provide for the appointment of a superintendent to govern the reconstituted or reorganized school district, including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time the Governor declares a state of emergency in a school district shall not be eligible to serve in the office of school board member or superintendent for the school district reconstituted or reorganized following the district transformation period.

This subsection (4) shall stand repealed from and after July 1, 2020.

Credits

Laws 1996, Ch. 302, § 2, eff. May 14, 1996. Amended by Laws 1999, Ch. 421, § 4, eff. June 1, 1999; Laws 2007, Ch. 518, § 2, eff. July 23, 2007; Laws 2012, Ch. 525, § 2, eff. Sept. 24, 2012; Laws 2013, Ch. 331 (H.B. 975), § 1; Laws 2013, Ch. 363 (S.B. 2779), § 1; Laws 2015, Ch. 485 (S.B. 2558), § 1, eff. July 1, 2015; Laws 2017, Ch. 439 (S.B. 2431), § 2, eff. July 1, 2017.

Editors' Notes

REPEAL

<Subsection (4) is repealed by its own terms on July 1, 2020.>

EFFECTIVE DATE

<This section was amended effective upon effectuation under Section 5 of the Voting Rights Act of 1965. See *Shelby County, Ala. v. Holder*, 2013, 133 S.Ct. 2612, 186 L.Ed.2d. 651. >

Notes of Decisions (3)

Miss. Code Ann. § 37-17-13, MS ST § 37-17-13

The Statutes and Constitution are current with laws from the 2019 Regular Session effective upon passage as approved through March 22, 2019. The statutes are subject to changes provided by the Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

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West's Annotated Mississippi Code

Title 37. Education

Chapter 17. Accreditation of Schools

Miss. Code Ann. § 37-17-17

§ 37-17-17. Mississippi Achievement School District

Currentness

- (1) There is created the Mississippi Achievement School District for the purpose of transforming persistently failing public schools and districts throughout the state into quality educational institutions. The Mississippi Achievement School District shall be a statewide school district, separate and distinct from all other school districts but not confined to any specified geographic boundaries, and may be comprised of any public schools or school districts in the state which, during two (2) consecutive school years, are designated an "F" school or district by the State Board of Education under the accountability rating system or which have been persistently failing and chronically underperforming.
- (2) The Mississippi Achievement School District shall be governed by the State Board of Education.
- (3) The State Board of Education shall obtain suitable office space to serve as the administrative office of the school district.
- (4) The State Board of Education shall select an individual to serve as superintendent of the Mississippi Achievement School District. The superintendent must be deemed by the board to be highly qualified with a demonstrable track record for producing results in a context relevant to that of Mississippi Achievement School District schools. The superintendent of the Mississippi Achievement School District shall exercise powers and duties that would afford significant autonomy but are bound by the governance of the State Board of Education.
- (5)(a) Each public school or district in the state which, during each of two (2) consecutive school years or during two (2) of three (3) consecutive school years, receives an "F" designation by the State Board of Education under the accountability rating system or has been persistently failing as defined by the State Board of Education may be absorbed into and become a part of the Mississippi Achievement School District. All eligible public schools and districts shall be prioritized by the Mississippi Achievement School District according to criteria set by the Mississippi Achievement School District and publicized prior to the annual release of accountability rating data. The Mississippi Achievement School District shall takeover only the number of schools and districts for which it has the capacity to serve. The transfer of the school's/district's governance from the local school district to the Mississippi Achievement School District shall take effect upon the approval of the State Board of Education unless, in the sole determination of the Mississippi Achievement School District, the transition may be more smoothly accomplished through a gradual transfer of control. If the Mississippi Achievement School District elects not to assume complete control of a school or district immediately after that school receives an "F" designation during each of two (2) consecutive school years or during two (2) of the three (3) consecutive school years, the State Board of Education shall prescribe the process and timetable by which the school or district shall be absorbed; however, in no event

may the transfer of the school or district to the Mississippi Achievement School District be completed later than the beginning of the school year next succeeding the year during which the school or district receives the "F" designation. School districts that are eligible to be absorbed by the Achievement School District, but are not absorbed due to the capacity of the Achievement School District, shall develop and implement a district improvement plan with prescriptive guidance and support from the Mississippi Department of Education, with the goal of helping the district improve student achievement. Failure of the school board, superintendent and school district staff to implement the plan with fidelity and participate in the activities provided as support by the department shall result in the school district retaining its eligibility for the Mississippi Achievement School District.

(b) The State Board of Education shall adopt rules and regulations governing the operation of the Mississippi Achievement School District.

(c) Designations assigned to schools or districts under the accountability rating system by the State Board of Education before the 2015-2016 school year may not be considered in determining whether a particular school or district is subject to being absorbed by the Mississippi Achievement School District. During the 2017-2018 school year, any school or district receiving an "F" designation after also being designated an "F" school or district in the 2015-2016 and 2016-2017 school years may be absorbed immediately by the Mississippi Achievement School District, upon approval of the State Board of Education.

(d) The school district from which an "F" school or district is being absorbed must cooperate fully with the Mississippi Achievement School District and the State Board of Education in order to provide as smooth a transition as possible in the school's/district's governance and operations for the students enrolled in the school or district. Upon completion of the transfer of a school or district to the Mississippi Achievement School District, the school or district shall be governed by the rules, regulations, policies and procedures established by the State Board of Education specifically for the Mississippi Achievement School District, and the school or district shall no longer be under the purview of the school board of the local school district. In the event of the transfer of governance and operations of a school district, the State Board of Education shall abolish the district as prescribed in Section 37-17-13.

(e) Upon the transfer of the school or school district to the Mississippi Achievement School District, the individual appointed by the State Board of Education to serve as superintendent for the Mississippi Achievement School District shall be responsible for the administration, management and operation of the school or school district, including the following activities: (i) approving or denying all financial obligations of the school or school district; (ii) approving or denying the employment, termination, nonrenewal and reassignment of all licensed and nonlicensed personnel; (iii) approving or denying contractual agreements and purchase orders; (iv) approving or denying all claim dockets and the issuance of checks; (v) supervising the day-to-day activities of the school or school district's staff in a manner which in the determination of the Mississippi Achievement School District will best suit the needs of the school or school district; (vi) approving or denying all athletic, band and other extracurricular activities and any matters related to those activities; (vii) honoring any reasonable financial commitment of the district being absorbed; and (viii) reporting periodically to the State Board of Education on the progress or lack of progress being made in the school or school district to improve the school or school district's impairments.

(f) Upon attaining and maintaining a school or district accountability rating of "C" or better under the State Department of Education's accountability rating system for five (5) consecutive years, the State Board of Education may decide to revert the absorbed school or district back to local governance, provided the school or school(s) in question are not conversion charter schools. "Local governance" may include a traditional school board model of governance or other new form of

governance such as mayoral control, or other type of governance. The State Board of Education shall determine the best form of local governance and school board composition after soliciting the input of local citizens and shall outline a process for establishing the type of governance selected. The manner and timeline for reverting a school or district back to local control shall be at the discretion of the State School Board, but in no case shall it exceed five (5) years.

(6) The Superintendent of the Mississippi Achievement School District shall hire those persons to be employed as principals, teachers and noninstructional personnel in schools or districts absorbed into the Mississippi Achievement School District. Only highly qualified individuals having a demonstrable record of success may be selected by the superintendent for such positions in the Mississippi Achievement School District. The superintendent may choose to continue the employment of any person employed in an "F" rated school when the school or district is absorbed into the Mississippi Achievement School District; alternatively, the superintendent may elect not to offer continued employment to a person formerly employed at a school or district that is absorbed into the Mississippi Achievement School District. Any persons employed by the Mississippi Achievement School District shall not be subject to Sections 37-9-101 through 37-9-113.

(7)(a) The Mississippi Achievement School District may use a school building and all facilities and property that is a part of a school and recognized as part of the facilities or assets of the school before it is absorbed into the Mississippi Achievement School District. In addition, the Mississippi Achievement School District shall have access to those additional facilities that typically were available to that school or district, its students, faculty and staff before its absorption by the Mississippi Achievement School District. Use of facilities by a school or district in the Mississippi Achievement School District must be unrestricted and free of charge. However, the Mississippi Achievement School District shall be responsible for providing routine maintenance and repairs necessary to maintain the facilities in as good a condition as when the right of use was acquired by the Mississippi Achievement School District. The Mississippi Achievement School District shall be responsible for paying all utilities at the facilities used for the absorbed school. Any fixtures, improvements and tangible assets added to a school building or facility by the Mississippi Achievement School District must remain at the school or district building or facility if the school or district is returned to local governance.

(b) The State Board of Education shall include in the rules and regulations adopted pursuant to subsection (5) of this section specific provisions addressing the rights and responsibilities of the Mississippi Achievement School District relating to the real and personal property of a school or district that is absorbed into the Mississippi Achievement School District.

(8)(a) The Mississippi Achievement School District shall certify annually to the State Board of Education in which a Mississippi Achievement School District school or district is located the number of students residing in the school district which are enrolled in that school or district.

(b) Whenever an increase in funding is requested by the school board for the support of schools within a particular school district absorbed into the Mississippi Achievement School District, the State Board of Education and the superintendent for the Mississippi Achievement School District shall hold a public meeting in the local municipality having jurisdiction of the absorbed school district to allow input of local residents on the matter, and subsequent to the conclusion of such meeting, the board of the Mississippi Achievement School District shall submit its request for ad valorem increase in dollars to the local governing authority having jurisdiction over the absorbed school district for approval of the request for increase in ad valorem tax effort. In a district in which a school or schools but not the entire district is absorbed into the Mississippi Achievement School District, the local school district shall pay directly to the Mississippi Achievement School District an

amount for each student enrolled in that school equal to the ad valorem tax receipts and in-lieu payments received per pupil for the support of the local school district in which the student resides. The pro rata ad valorem receipts and in-lieu receipts to be transferred to the Mississippi Achievement School District shall include all levies for the support of the local school district under Sections 37-57-1 (local contribution to the education funding program) and 37-57-105 (school district operational levy) and may not include any taxes levied for the retirement of the local school district's bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs, unless the school or schools absorbed include a high school at which vocational-technical education programs are offered. In no event may the payment exceed the pro rata amount of the local ad valorem payment to the education funding program under Section 37-57-1 for the school district in which the student resides. Payments made under this section by a school district to the Mississippi Achievement School District must be made before the expiration of three (3) business days after the funds are distributed to the local school district by the tax collector.

(c) If an entire school district is absorbed into the Mississippi Achievement School District, the tax collector shall pay the amounts as described in paragraph (b) of this subsection, with the exception that all funds should transfer, including taxes levied for the retirement of the local school district's bonded indebtedness or short-term notes and any taxes levied for the support of vocational-technical education programs. The Mississippi Achievement School District shall pay funds raised to retire the district's debts to the appropriate creditors on behalf of the former district.

(9)(a) The State Department of Education shall make payments to the Mississippi Achievement School District for each student in average daily membership at a Mississippi Achievement School District school equal to the state share of the education funding program payments for each student in average daily attendance at the local school district or former local school district in which that school is located. In calculating the local contribution for purposes of determining the state share of the education funding program payments, the department shall deduct the pro rata local contribution of the school district or former school district in which the student resides, to be determined as provided in Section 37-151-7(2)(a).

(b) Payments made pursuant to this subsection by the State Department of Education must be made at the same time and in the same manner as education funding program payments are made to all other school districts under Sections 37-151-101 and 37-151-103. Amounts payable to the Mississippi Achievement School District must be determined by the State Department of Education in the same manner that such amounts are calculated for all other school districts under the education funding program.

(10) The Mississippi Achievement School District shall be considered a local educational agency for the same purposes and to the same extent that all other school districts in the state are deemed local educational agencies under applicable federal laws.

(11) The Mississippi Achievement School District may receive donations or grants from any public or private source, including any federal funding that may be available to the school district or individual schools within the Mississippi Achievement School District.

(12) The Legislature may appropriate sufficient funding to the State Department of Education for the 2017 fiscal year for the specific purpose of funding the start-up, operational and any other required costs of the Mississippi Achievement School District during the 2017-2018 school year.

Credits

Added by Laws 2016, Ch. 486 (H.B. 989), § 1, eff. July 1, 2016. Amended by Laws 2017, Ch. 439 (S.B. 2431), § 3, eff. July 1, 2017.

Miss. Code Ann. § 37-17-17, MS ST § 37-17-17

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